



COMMUNITY DEVELOPMENT DEPARTMENT

17555 Peak Avenue Morgan Hill CA 95037 (408) 779-7247 Fax (408) 779-7236
Website Address: www.morgan-hill.ca.gov

PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

SEPTEMBER 23, 2008

PRESENT: Acevedo, Davenport, Escobar, Lyle, Mueller

ABSENT: Koepp-Baker

LATE: Tanda, who arrived and was seated at 7:02 p.m.

STAFF: Planning Manager (PM) Rowe, Business Assistance and Housing Services Director (BAHSD) Toy and Minutes Clerk Johnson.

In the absence of Chair Koepp-Baker, Vice-Chair Davenport called the meeting to order at 7:00 p.m., inviting all present to join in pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Vice-Chair Davenport opened the floor to public comment for matters not appearing on the agenda. With no members of the audience indicating a wish to address items not appearing on the agenda, the public hearing was closed.

CONSENT CALENDAR:

MINUTES:

SEPTEMBER 9,
2008

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE SEPTEMBER 9, 2008 MINUTES WITH THE FOLLOWING REVISIONS:

Page 6, paragraph 2: years ~~for~~ *before* working....

Page 7, paragraph 3: neighbors on ~~east~~ *west* side;

Page 8, Paragraph 5, bullet 2: and ~~not~~ does not encourage

Page 9, paragraph 6, (add/correction):Public Works will investigate a possible solution, *including – at the request of Commissioner Tanda – maintenance of the site, similar to what the applicant described was being done at the Gilroy cemetery .*

Pg 10, paragraph 7 (add):.....escrow *for impact fee payment*...

Page 11, paragraph 7, bullet 3 new rules for allocations, ~~get~~

Page 14, paragraph 2 (add): *Commissioner Mueller further called attention that everyone with projects submitted for the 2010-11 competition must meet their BMR commitments in their applications.*

PLANNING COMMISSION MEETING MINUTES

SEPTEMBER 23, 2008

PAGE 2

THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: KOEPP-BAKER.

Vice-Chair Davenport announced that staff had advised agenda item 2 was dependent on the ultimate outcome of item 1; therefore, Vice-Chair Davenport directed item 2 to be taken out of order and heard first on the agenda.

PUBLIC HEARINGS:

2) DAA-05-13C/ DSA-07-08A: JARVIS-SOUTH VALLEY DEVELOPERS

A request for approval to amend the development schedule and development agreement for 78 town homes in the Madrone Plaza project to extend the deadline for obtaining building permits and commencing construction by up to one year. The project site is approximately nine acres in size and is located at the southeast corner of Cochrane Rd. and Monterey Rd. in an R3 (PUD) zoning district.

PM Rowe presented the staff report, noting that it might be beneficial to the applicant if this item, following the noticed public hearing, were to be continued to the first meeting in November, 2008. "By then, the City Council would have time to consider the recommendations the Planning Commission will have made (regarding potential changes to the Below Market Rate [BMR] unit requirements). If the Council adopts or amends the recommendations as final, then the Planning Commission will have direction to carry out their directives. Continuing the matter will provide the applicant the opportunity of not having to file another amendment request for extensions to the development agreement and the development schedule," PM Rowe advised.

Responding to a question from Commissioner Mueller, PM Rowe observed that the concern of Scott Schilling, the applicant, was making changes before he was shown to be behind schedule. "Staff is recommending that if the Commissioners wish to have the matter continued, no points be deducted from the project's initial application," PM Rowe said.

Commissioner Lyle commented that the first meeting in November would occur before scoring discrepancies would be effective.

Commissioner Escobar clarified, "Testimony tonight regarding the request (for modification to the development agreement and development schedule) might be more appropriately considered once a final policy has been adopted by the City Council. Tonight the testimony may be valid, but a better use of time would be served to hear the matter in November."

Vice-Chair Davenport opened the public hearing for agenda item #2.

Having just arrived to the meeting, the applicant - Scott Schilling, 16060 Caputo Dr., #160, was informed of the recommendation to continue the matter to the November 11, 2008 Planning Commission meeting.

Mr. Schilling said, "My only concern is: if we are not totally in compliance with the time schedule, would that create conflict with Measure C?" Assured that such conflict would not

PLANNING COMMISSION MEETING MINUTES

SEPTEMBER 23, 2008

PAGE 3

be considered, Mr. Schilling indicated he was in favor of the plan.

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CONTINUE THE MATTER OF DAA-05-13C/ DSA-07-08A: JARVIS-SOUTH VALLEY DEVELOPERS TO THE NOVEMBER 11, 2008 PLANNING COMMISSION MEETING.

Under discussion of the motion, the following issues were raised:

- *potential of canceling the second meeting in November, which might create conflict if the matter were not resolved at the November 11 meeting
- *need to continue matter to date certain

COMMISSIONERS MUELLER/ESCOBAR AMENDED THE MOTION TO SET THE DATE FOR CONTINUATION TO THE SECOND PLANNING COMMISSION MEETING IN OCTOBER (TUESDAY OCTOBER 28, 2008), WITH THE PROVISIO THAT SHOULD THE MATTER NOT BE RESOLVED AT THAT TIME, A FURTHER HEARING WOULD BE DURING THE FIRST MEETING IN NOVEMBER.

THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: KOEPP-BAKER.

The regular order of the agenda was resumed.

1) ACCELERATING PREVIOUSLY APPROVED HOUSING PROJECTS

Discussion of the issues, policies and options addressing the cost of below market rate (BMR) housing and other factors that contribute to the local decline in the production of new homes in previously approved housing projects.

PM Rowe presented the staff report, calling attention to:

- the various tables and exhibits in the report
 - pricing of housing types
 - future BMR commitments and obligations; inventory of completed units (exhibit E)
 - progress in reaching housing goals (exhibits B & C)
 - shortages to categories of extremely low and moderate
- letter received from Syncon Homes with suggestions to help projects move forward again
- review of the September 9, 2008 workshop discussion
- discussion intent of this meeting:
- policy and system for granting extensions (length of time, etc.)
- availability of 77 units still to be allocated
- loan to value ratio questions (it was pointed out that the loan price was not affected by sales prices, but by front-end down payments)
- need for short term concessions ~~ coupled with agreement for incorporating green building standards
- exhibit F ~~ outstanding units (125)
- Senior units are 1 and 2 bedroom units
- total of 1 and 2 bedroom units is 329 out of listed 386 units allocated to

PLANNING COMMISSION MEETING MINUTES

SEPTEMBER 23, 2008

PAGE 4

Downtown (impact on schools not significant)

- City manager has asked schools to move impact fees to end of escrow
- consideration of Redevelopment Agency (RDA) to provide equity sharing

PM Rowe also reported that in August the City Council recommended that Staff work with the Commissioners to formulate a proposal for adjustment to the current BMR policy to be considered at an upcoming session of the Council. Part of the recovery is to emphasize keeping allocated projects moving forward,, while concurrently looking at ways to lower cost to produce market rate and lower the number of BMRs for a specified period of time, PM Rowe said. He also noted that project eligibly for assistance for the year 2009-10 was for that portion of the applications pertaining to BMRs. PM Rowe also recapped the consensus items arrived at the last Commission meetings for further discussion at this meeting:

- * applicable time period/duration
- * applicable triggers for assistance
- * measurable outcomes
- * accomplishments through 2006-07

also to be consider in discussions in the current meeting:

- scenarios 1 -2- 3 – 4 as outlined in the staff report

Commissioners noted other items for discussion:

- the summary tables included in the distributed staff report
- possible exclusion of the 500 allocations set aside for downtown
- perceived discrepancies in various categories, e.g., extremely low income and above moderate units
- data from local Realtors which have grouped numbers for Gilroy and Morgan Hill (need to separate Morgan Hill data out)

Business Assistance and Housing Services Director (BAHSD) Toy joined the meeting, and informed that the data from the Realtors is the source used for other reports, and is believed to be good data.

Vice-Chair Davenport opened the public hearing.

Rocke Garcia, 14500 Sycamore Dr., distributed a letter, and referenced a letter he had sent to the Commissioners the previous day. Mr. Garcia spoke to:

- the City's surviving home builders are facing a 'rough road'
- the Federal government's proposed \$700 billion is troublesome as details are unknown (could 'dump' a large number of foreclosed houses on the local market)
- home prices in the City are down by over 20% for this year
- a recent auction for below market rate dwellings resulted in little action
- City (especially Public Works) and School District fees have risen drastically
- difficulty of finding qualified buyers for BMRs
- developers have been building then 'sitting' on units for 6 – 9 months at considerable expense to themselves

Mr. Garcia said, "If you really want to help the City, please consider recommending eliminating all BMR requirements for at least two years."

PLANNING COMMISSION MEETING MINUTES

SEPTEMBER 23, 2008

PAGE 5

Mr. Garcia noted that prior discussion had centered on the ability of the City to meet the Regional Housing requirement numbers. "Probably that won't happen. I surely hope this is a temporary crisis. I recommend eliminating of all BMRs for a two-year period. It would also help accelerate building once funding is available if the City were to freeze all City fees until the end of escrow," Mr. Garcia stated.

BAHSD Toy advised the City Manager had asked the School District to freeze their fees.

Commissioners discussed with Mr. Garcia his previous request to reduce the BMR obligation by 50% versus the current request for elimination of the BMR obligation.

Scott Schilling, 16060 Caputo Dr., #160, spoke to the Commissioners regarding attempts at 'putting deals together'. Mr. Schilling said he agreed with the proposal explained by Mr. Garcia, and stressed that with the reduction of BMR commitments that he and South County Housing have would help in the 'current situation for the next 12 – 24 months'. Mr. Schilling suggested postponing the fees until a Certificate of Occupancy is issued, as he addressed the 'significant school fees required at the time of pulling a permit'.

Commissioners discussed with Mr. Schilling the various buyer incentive programs available as well as the currently constructed town homes in relation to median and open market rate units.

Mr. Schilling spoke to:

- positive projected protections for RDA should the proposal to have that agency back (support) homebuilders.
- ways of determining housing market recovery
- importance/intent of Build It Green (BIG) programs
- builders intention to go ahead with portions of developments as soon as sales pick up as infrastructures are already in

BAHSD Toy explained fee and timelines, noting that each of those factors can vary according to project detail.

Dick Oliver, 388 Woodview Ave., #100, addressed the Commissioners regarding the possibility of reducing the required fees for a set period.

Mr. Oliver continued by saying that Don Lapidus had asked Mr. Oliver to tell the Commissioners of this recent experience of building 5 BMR homes for which no qualified buyers could be found. "Closing on BMRs is difficult," he said.

Mr. Oliver then spoke to having the downtown units removed from the mix, which could then present a 'picture reflective of the past building indicators'. Mr. Oliver also detailed the continuing difficulty of lenders willing to generate loans. Mr. Oliver then explained the current inventories of housing units he has here in Morgan Hill, explained that the City of Gilroy was 'much worse off' and that a group of Gilroy business persons had intent of forming a coalition to work with the Planning Commission and local government officials in that town.

Responding to questions, Mr. Oliver said, "Some of the units in Mission Ranch sold

PLANNING COMMISSION MEETING MINUTES

SEPTEMBER 23, 2008

PAGE 6

rapidly and others have languished on the market. Selling indicates the function and fluctuation of the marketplace. You must have the right buyer for the right house.”

Commissioners discussed with the three builders the following:

- possibility of structuring the timeframes (pulling permits>>commencement of construction) at the present time to June 30, 2010
- need to have modified development agreements and development schedules reviewed/approved by the City Council
- banks reluctance to lend money for additional housing units until sales are verified of currently built / in-progress units

Mr. Garcia said, “This is my fourth recession in my 30 years as a builder. This is by far the worse and we still don’t know how deep it will be. Right now, we are considering the effect on the community of housing that previously sold for \$800,000 that might be worth only \$300,000 if the proposed government bailout becomes reality.”

Commissioner Escobar said he did not think the bailout would necessarily dump many more houses on the market.

Mr. Garcia said, “I’m asking for reprieve of the BMR obligations and for the ability to construct two median and two low income units based on the floor plans submitted.”

With no others present indicating a wish to speak to the issues, the public hearing was closed.

BAHSD Toy clarified that all median priced units are considered ‘sale units’.

The Commissioners commenced discussion of the 13 items (contained within the staff report) which had been presented for consensus. Issues covered included:

- ◇ some data was missing and will be provided/corrected by staff
- ◇ differenced in median and moderate unit pricing (Regional Housing Needs Assessment) RHNA numbers indicate that moderate units are categorized as being in the median group)
- ◇ allotment years (2010-11) for the next competition and when median BMRs will become actualized
- ◇ staff input regarding current projects and status thereof
- ◇ clarification of items on exhibits B & C
- ◇ perception of inaction on 800 unit spread
- ◇ anticipated numbers of units to be constructed (allocations previously awarded and those anticipated)
- ◇ considerable input was had as to the possibility that not many units will be built in the next year and a half
- ◇ need for making decision on the request for eliminating BMR requirement very quickly
- ◇ if ‘dirt not broken’, there would be no consideration for adjustment to the development agreement or the development schedule
- ◇ the development agreement would be to ‘spell out’ the parameters of programs commitments which can be made
- ◇ necessity of price (sales) recovery

PLANNING COMMISSION MEETING MINUTES

SEPTEMBER 23, 2008

PAGE 7

- ◇ need for additional information (column) to reflect potential adjustments through 2014
- ◇ equitable financial relief for developers
- ◇ preference of scenario options presented
- ◇ concerns of meeting intent of General Plan for placement of BMRs
- ◇ focus on having fees deferred to close of escrow
- ◇ need to have target date of June 30, 2010 for having temporary program:
 - } (forgive BMR requirement (or retain 50% of BMR requirement)
 - } provide assistance to developers (cutting/reducing/deferring in-lieu fees
 - } having fees due only on Certification of Completion)
 - } extension of development agreements/schedules sunsetted ~~ 2010-2011 rules would become effective then

PM Rowe advised that the City Council has scheduled a workshop when Planning Staff will present the recommendations from the Commissioners.

Having ascertained conclusion of the discussion, Vice-Chair Davenport determined that consensus was agreed on:

- revised Exhibit E, the inventory of completed new homes - Planning Commission accepted the exhibit and requested staff to review with updates corresponding with other projects need table saying how many projected units (100 or so) to be built by 6/30/10 so the need is based on that number of units built versus 700 units being constructed
- RHNA Information Exhibits B & C were accepted as presented
- effect on RHNA of lowering BMR requirements - Planning Commission action of lowering BMR's by 50% for a two-year period is less than total shown in Exhibit A given current market conditions (47 BMR will not be reduced by half because not all 700 units will be constructed). Staff should provide more realistic information based on builders' data provision
- BMR reduction scenarios Exhibit D: Planning Commission recommends Option #1 [reduction of 50% (5% low)] The consensus on this was skewed, with a proposal by Commissioner Mueller (2% low, 4% median preferred by one Commissioner) / the Planning Commission further clarified that the Capriano Project only has to provide three BMR *low* units
- Exhibit C- Planning Commission said to include percentage attainment
- loan to value ratios – Planning Commission accepted analysis
- Short-term Concessions- PC Action recommended that City get commitment in return in Development Agreement for BMR reduction (e.g. improved BIG)
- inventory Sheets- Planning Commission accepted with modifications
- Exhibit E- Planning Commission accepted as presented
- duration of BMR Reduction Program- Planning Commission recommended that projects which begin construction by June 30, 2010 are eligible for reduction; if project doesn't accomplish phase completion, the development agreement will revert to the original. *[Commissioners Lyle and Mueller wanted the requirement NOT to revert back to the original requirement, but preferred it to be the same 5% low and 5% median*

PLANNING COMMISSION MEETING MINUTES

SEPTEMBER 23, 2008

PAGE 8

requirement that the 2010/11 and later projects will have]

- in-lieu Fees – Planning Commissioners generally expressed preference for some option in eligible development agreements for a fee reduction up to June 30, 2010 and defer City fees to close of escrow.
- Commissioners strongly suggested a needs analysis of the fiscal impact for a two-year period of BMR reductions be prepared for Council review
- Citywide Down-payment Assistance Program and Equity Share- Planning Commission supports exploration of current and future programs
- trigger for Market Recovery- Planning Commission suggests the City Council should consider letting the Commissioners return with a measurement based on a to-be-determined methodology for City's assistance
- Measurable Outcome- Planning Commission questioned: "Do additional units get built?"
- School Liaison Committee- Planning Commission stressed the need of outcomes of fee reduction request before a recommendation is formulated
- RDCS Allocation – Planning Commission expressed the need to revisit un-constructed BMR's being allocated to affordable housing allocation

COMMISSIONERS MUELLER/TANDA MOTIONED TO SEND THE CONSENSUS RECOMMENDATIONS TO THE CITY COUNCIL, AND TO EMPHASIZE THE COMMITMENT TO REDUCE THE NUMBER OF BMRS TO 6/30/10. THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, ESCOBAR, LYLE, MUELLER (who said his was a 'qualified vote', as he thought some of the included items *did not reduce* burdens to the developers), TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: KOEPP-BAKER.

ANNOUNCEMENTS:

PM Rowe reiterated the planned Council workshop for October 15, 2008 regarding the issues revealed in agenda item 1.

Vice-Chair Davenport noted that the Commissioners working on the subcommittee will have an opportunity to review the issues and concerns raised during discussion of Mt. Hope Cemetery before that item is returned for consideration by the Commissioners.

CITY COUNCIL REPORTS:

No actions resultant from Planning Commission actions.

ADJOURNMENT:

Noting that there was no further business for the Planning Commission at this meeting, Vice-Chair Davenport adjourned the meeting at 10:33 pm.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk